

Cabinet Member for Policing and Equalities
Council

21 March 2022
22 March 2022

Name of Cabinet Member:

Cabinet Member for Policing and Equalities – Councillor A S Khan

Director Approving Submission of the report:

Director of Law and Governance

Ward(s) affected:

None

Title: Amendment to Constitution -

The Code of Good Planning Practice for Members and Employees Dealing with Planning Matters

Is this a key decision?

No - The decision whether to adopt a new Code of Good Practice is reserved to Council

Executive Summary:

The Members' Planning Code of Good Practice ("Model Code") was originally prepared in 2013-4 in response to a series of successful court challenges around local planning authorities and their Members' conduct or conflicts of interests. It replaced what was a number of individual and sometimes haphazard approaches in individual councils at the time. A copy of the Model Code is attached as Appendix A to this report.

This report seeks approval to adopt a revised Code of Good Planning Practice for Members and Employees Dealing with Planning Matters ("Revised Planning Code"), amendments to which have been made in line with the Model Code. This report also seeks approval to remove the Revised Planning Code (as adopted) from the body of the Constitution and instead append the final document to the Constitution. A copy of the proposed Revised Planning Code is attached as Appendix B to this report.

The current Code of Good Planning Practice for Members and Employees Dealing with Planning Matters ("Current Planning Code") sits in the Constitution and has been absorbed into the Constitution over time despite the fact that it is a document that was intended to be "appended" to the Constitution. As it is currently part of the Constitution, the views of the Planning Committee will be sought on the proposed revisions and any recommendations or comments from the Committee will be reported to the Cabinet Member for Policing and Equalities at his meeting on 21 March, prior to consideration by Council.

Recommendations:

The Cabinet Member for Policing and Equalities is requested to:

- 1) Consider any recommendations or comments from Planning Committee;
- 2) Approve the Revised Planning Code; and
- 3) Recommend that the Council adopt the Revised Planning Code.

Council is requested to:

- 1) Adopt the Revised Planning Code as attached as Appendix B to this Report (either in whole or with modifications) with effect from the start of the 2022/23 Municipal Year and authorise the City Solicitor to update the City Council's Constitution to remove the Revised Planning Code from the body of the Constitution and instead append the Revised Planning Code to the Constitution.

List of Appendices included:

- A. Members' Planning Code of Good Practice ("Model Code")
- B. Revised Planning Code

Other useful background papers can be found at the following web addresses:

'Probity in Planning' issued by the Local Government Association in 2013 and updated in 2019: <https://www.local.gov.uk/publications/probity-planning-advice-councillors-and-officers-making-planning-decisions>

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

Yes –

The Constitutional Advisory Panel - 28 February 2022

The views of Planning Committee are being sought

Will this report go to Council?

Yes – 22 March 2022

Report title: Amendment to the Constitution – Code of Good Planning Practice for Members and Employees Dealing with Planning Matters

1 Context (or background)

1.1 The Code of Good Planning Practice for Members and Employees Dealing with Planning Matters (the “Current Planning Code”) for Coventry City Council is currently set out in Part 4C of the Constitution.

1.2 Part 2G - Functions of Planning Committee, paragraph 4(f), states the following:

Functions Delegated to the Planning Committee

The Planning Committee will have responsibility for the following delegated functions....:

... To approve, adopt, review, amend and revise codes of best practice and procedure for planning and other matters, including the Planning Code of Good Practice, within its terms of reference and to make the same publicly available.

1.3 Part 4C, paragraph 2.4, also states the following:

The Code will be appended to the Council's Constitution and is available to all Members, employees and members of the public.

1.4 As such the Planning Committee have authority to review the Current Planning Code and the Code is also supposed to be appended to the Constitution as opposed to being in the main body. Over time the Current Planning Code has been absorbed into the body of the Constitution. As it now sits in the Constitution, the views of the Planning Committee on the proposed revisions will be reported to the Cabinet Member for Policing and Equalities, prior to consideration by Council, who are also requested to authorise the City Solicitor to update the City Council’s Constitution to remove the Revised Planning Code from the body of the Constitution and instead append the Revised Planning Code to the Constitution. The Constitutional Advisory Panel considered this at their meeting on 28 February, 2022 and recommended that the Cabinet Member for Policing and Equalities approve this proposal.

1.5 The Model Code is attached at Appendix A. It was originally prepared in 2013-4 in response to a series of successful court challenges concerning local planning authorities and Members’ conduct or conflicts of interests. It replaced what was a number of individual and sometimes haphazard approaches in individual councils at the time.

1.6 The drafting of the Model Code was subject to consultation and comment from a number of local authorities through the machinery of the Association of Council Secretaries and Solicitors (now LLG), the Local Government Association, the Local Government Ombudsman, Audit Commission and from firms of solicitors or counsel acting on their behalf.

- 1.7 Following its publication, the Model Code proved to be one of the most successful and popular guidance documents produced by LLG, being adopted by councils across the country.
- 1.8 The Model Code takes into account the following:
- a) updates to the Seven Principles of Public Life (the ‘Nolan principles’);
 - b) commentary from the Committee on standards in public life;
 - c) the changes in the approach to codes of conduct;
 - d) the changes to predetermination introduced by the Localism Act 2011;
 - e) the guide on ‘Openness and transparency on personal interests’ published by the Department for Communities and Local Government 2013.
- 1.9 A Revised Planning Code, taking into account the Model Code is attached at Appendix B.
- 1.10 The Revised Planning Code, whilst broadly similar to the Model Code, contains some differences to the LLG version, in keeping with established practice at Coventry City Council. The main changes are as follows:
- a) References to “you should”, “your responsibility is” etc have been removed and replaced with “Members should”, “Members’ responsibility is etc”;
 - b) At paragraph 3.2 the word “must” is used in relation to mandatory training for Members before sitting on the Planning Committee, ensuring that all Member must be trained before they attend Planning Committee meetings;
 - c) Reference is made to the Employee Code of Conduct in regards to “Respect” at paragraph 4.2 to reiterate that this value is embedded in both the Employee and Member Codes of Conduct;
 - d) Consideration of “material interests” has been clarified at paragraph 7.3.3;
 - e) Paragraph 7.4 has been removed in its entirety as bias may not just exist in relation to Council owned land.
- 1.11 As the Current Planning Code forms part of the Constitution, any changes require approval by Council, on recommendation of the Cabinet Member for Policing and Equalities. Council are also requested to authorise the City Solicitor to update the City Council’s Constitution to remove the Current Planning Code from the body of the Constitution and instead append the Revised Planning Code to the Constitution in line with the wording in the Constitution as detailed earlier in this Report.
- 1.12 The views of the Planning Committee are being sought on the proposed changes and any recommendations or comments will be considered by the Cabinet Member for Policing and Equalities.

2. Options considered and recommended proposal

- 2.1 **Option 1:** Do nothing. This is not recommended as the Current Planning Code predates the Model Code and is at least nine years old.
- 2.2 **Option 2:** Approve the Revised Planning Code (either in whole or with modifications). The Revised Planning Code retains the format and style of the Current Planning Code but the updates are based on the Model Code, which was written to provide more robust rules and has been adopted by the vast majority of Local Authorities in the Country and is now seen as a best practice document. The intention is for the Revised Planning Code to be available for the start of the 2022/23 municipal year. It will also be incorporated into training provided for newly elected and existing Councillors early in the new municipal year.

Recommendations:

The Cabinet Member for Policing and Equalities is requested to:

- 1) Consider any recommendations or comments from Planning Committee;
- 2) Approve the Revised Planning Code; and
- 3) Recommend that the Council adopt the Revised Planning Code.

Council is requested to:

Adopt the Revised Planning Code as attached as Appendix B to this Report with effect from the start of the 2022/23 Municipal Year and authorise the City Solicitor to update the City Council's Constitution to remove the Current Planning Code from the body of the Constitution and instead append the Revised Planning Code to the Constitution.

3. Results of consultation undertaken

- 3.1 The Model Code itself was the subject of consultation at the time of writing on 2013-14.

4. Timetable for implementing this decision

- 4.1 Any actions arising from this report will be implemented from the start of the 2022/23 Municipal Year.

5. Comments from Chief Operating Officer (Section 151 Officer) and Director of Law and Governance

- 5.1 Financial implications
There are no specific financial implications arising from the recommendations within this report.

5.2 Legal implications
There are no specific legal implications arising from this report. The issues referred to in this report will assist the Council in complying with its obligations under section 27 of the Localism Act 2011.

6 Other implications

None

6.1 How will this contribute to the Council Plan (www.coventry.gov.uk/councilplan/)?

Not applicable.

6.2 How is risk being managed?

There is no direct risk to the organisation as a result of the contents of this report.

6.3 What is the impact on the organisation?

No direct impact at this stage.

6.4 Equalities / EIA

There are no public sector equality duties which are of relevance at this stage.

6.5 Implications for (or impact on) climate change and the environment

None

6.6 Implications for partner organisations?

None at this stage.

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